

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish A Framework for Network Architecture Development of Dominant Carrier Networks.

Rulemaking 93-04-003
(Filed April 7, 1993)

Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks.

Investigation 93-04-002
(Filed April 7, 1993)

(Verizon UNE Phase)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S
RULING REVERSING LIMITATION ON INTERIM PRICING PROPOSALS
AND SOLICITING FURTHER COMMENTS**

In a May 31, 2002¹ ruling in this case, we described several delays in this matter which have postponed adoption of unbundled network element (UNE) prices for Verizon California (Verizon) based on a forward-looking, or "total element long run incremental cost" (TELRIC) methodology. In the ruling, we indicated that we would consider whether some form of expedited interim relief was in order while we considered whether to require updated cost filings in this matter.

At a June 28 prehearing conference to discuss the concept of interim pricing, we set a schedule for the filing of interim UNE pricing proposals. At

¹ All dates are 2002 unless otherwise noted.

that PHC, Verizon described an interim pricing proposal it intended to file involving a discount from Verizon's current UNE rates as established in various interconnection agreements. AT&T Communications of California, Inc. and WorldCom Inc. (Joint Commenters) described an alternative interim pricing proposal. In addition, counsel for TMC, Call America and Sage Telecom suggested a third alternative, namely use of UNE rates recently adopted by the New York Public Service Commission for Verizon's operations in that state. At the PHC, we set a further schedule for the filing of comprehensive interim pricing proposals, and we specifically noted that we were not inclined to adopt rates from another state, such as New York, particularly when other interim pricing options existed, such as the use of the Federal Communications Commission's (FCC) Synthesis Model. Thus, we placed a limitation on the interim pricing methodologies we would consider.

On July 30, two interim rate proposals were filed. Verizon proposes adjusting its current UNE rates using a trend analysis based on cost studies it has filed in Florida. Joint Commenters filed a competing proposal based on interim UNE loop and switching rates recently adopted for Pacific Bell Telephone Company (Pacific Bell).

On August 20, 2002, parties filed comments on these proposals. Generally, Verizon raises due process arguments that it would be improper for the Commission to apply Pacific Bell interim loop and switching rates to Verizon. Verizon maintains that it did not participate in the underlying case in which those rates were adopted and it does not have access to the models underlying those rates. In contrast, Joint Commenters oppose Verizon's proposals to adjust current UNE rates using a trend analysis based on Florida cost studies. Joint Commenters argue that this is inappropriate for several reasons, including

alleged differences between the 1996 and 2001 Florida cost studies, lack of access to the Florida models, and the fact that the Florida Public Service Commission has not ruled on the contested aspects of the 2001 cost study.

Reply comments on these two interim pricing proposals have yet to be filed. Without prejudging the merits of either proposal, we note that both Verizon and Joint Commenters have raised numerous objections concerning these competing interim pricing proposals that deserve further scrutiny. We do not rule today on the merits of these arguments. Nevertheless, we are persuaded that our earlier limitation on considering application of adopted UNE rates from another state in which Verizon operates may have been premature. In order to have a complete record from which to make a decision on interim rates, we should lift the limitation we put in place at the June 28 PHC where we stated that we would not look favorably on proposals to adopt UNE rates from another state, such as New York. (PHC Transcript at 1673). By this ruling, we lift that limitation and solicit comments on the following:

1. Should the Commission set interim loop and switching rates for Verizon (and other Verizon UNE rates suggested by the parties)² by considering rates recently adopted for Verizon in other states in which it operates, such as, but not limited to New York? If yes, parties should include with their response a comprehensive proposal describing the specific state they would recommend, the rates in that state, and the basis for the recommendation.

² Parties have agreed that the Commission should set interim prices for two-wire loops, four-wire loops, two-wire ports (including Centrex ports), DS-1 ports, end office switching per minute of use, tandem switching per minute of use, and non-recurring charges. Parties disagree on whether the Commission should set interim rates for vertical switching features.

2. If the Commission were to base interim UNE rates on rates for Verizon from another Verizon state, such as New York, should the Commission use the FCC's Synthesis Model, as proposed in part by the Joint Commenters in their July 30th filing, to compare the relative cost differences between Verizon's California operations and its operations in that other state and thereby adjust Verizon's California rates to reflect that cost differential? If yes, parties should provide a specific Synthesis Model comparison and its effect on the interim rates they are proposing.

Parties should file comments on the above questions no later than September 9, 2002. Reply comments on this issue may be filed no later than September 17, 2002. We shall revise the date of September 6 that we had established previously for reply comments on interim pricing proposals and allow these replies to be filed on September 17 along with the replies to the questions set forth herein. In addition to the normal process for the filing and service of comments, a copy of all filings should be sent electronically to the service list for this proceeding and to Administrative Law Judge Dorothy Duda at dot@cpuc.ca.gov.

IT IS RULED that:

1. The limitation that was placed on interim pricing proposals at the June 28, 2002 prehearing conference should be lifted.
2. Parties should file and serve responses to the questions set forth in this ruling no later than September 9, 2002.

3. Parties may file and serve replies to the September 9 comments and to the August 20 comments no later than September 17, 2002.

Dated August 23, 2002, at San Francisco, California.

/s/ HENRY M. DUQUE

Henry M. Duque
Assigned Commissioner

/s/ DOROTHY J. DUDA

Dorothy J. Duda
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner and Administrative Law Judge's Ruling Reversing Limitation on Interim Pricing Proposals and Soliciting Further Comments on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated August 23, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.